

The Second Division consisted of the regular members and in addition Referee Herbert L. Marx, Jr. when award was rendered.

Parties to Dispute: ( System Federation No. 109, Railway Employees'  
Department, A. F. of L. - C. I. O.  
(Carmen)  
Consolidated Rail Corporation

Dispute: Claim of Employees:

- (a) That the Carrier violated the effective agreement when on November 3, 1976, it assessed Mr. John P. Jones, Carman, five days actual suspension commencing November 4, 1976 and terminating November 10, 1976, as a result of hearing and investigation conducted on October 26, 1976.
- (b) That accordingly, the Carrier be ordered to remove all record of this discipline from his service record and that the Claimant's service record be restored unimpaired; that the Carrier be ordered to reimburse the Claimant for all compensation he would have earned during the period November 4, 1976 to November 10, 1976 inclusive.

### Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

Claimant was charged with violation of Rule 22 and "lateness in arrival for your scheduled starting time, all of which occurred during period August 11, 1976 through and including October 13, 1976", with an amended charge referring to tardiness on October 20, 1976. Rule 22 reads as follows:

"Rule 22 - Reporting Off

In case an employee is unavoidably kept from work he will not be discriminated against. An employee detained from work on account of sickness or for any other good causes shall notify his foreman as early

"as possible. When known, employees are expected to make advance arrangements if necessary to be absent."

Claimant was afforded a fair investigative hearing with full opportunity to defend his attendance record. The specifications in the notice of investigation were sufficiently clear so that there could be no misunderstanding as to the purpose of the hearing. At the hearing, the Claimant admitted the numerous instances of tardiness and failure to report.

From the record it is clear that the Claimant maintained an unsatisfactory attendance record during the two months in question and that he failed to comply with the requirements of Rule 22. There is no indication that he was in any way "discriminated against".

Following the investigative hearing, Claimant was assessed a five-day disciplinary penalty, and the Board finds no reason whatsoever to interfere with this remedial penalty imposed by the Carrier.

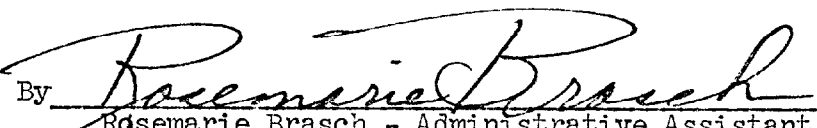
A W A R D

Claim denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

Attest: Executive Secretary  
National Railroad Adjustment Board

By

  
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 27th day of June, 1979.